

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JOE MURPHY, YORAM BEN-AMRAM §
and GALTEX DEVELOPMENT, LLC §
§
VS. § CIVIL ACTION NO. G-12-167
§
THE CITY OF GALVESTON, TEXAS §

OPINION AND ORDER

Before the Court is the “Motion for Remand or Partial Remand” of Plaintiffs, Joe Murphy, Yoram Ben-Amram, and Galtex Development, LLC; the Motion is ripe for disposition.

Because a party seeking compensation for an unlawful taking must pursue any state procedures for obtaining just compensation, or adequately demonstrate while such measures would be futile, before bringing a federal takings claim, Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City, 473 U.S. 172, 195 (1985); and because Plaintiffs’ takings claims brought under the Texas Constitution, at present, substantially predominate over their federal takings claim; and because the Plaintiffs’ state law takings claims present complex and “perplexing” issues of Texas constitutional law, Sheffield Development Co. v. City of Glenn Heights, 140 S.W. 3d 660, 671 (Tex. 2004), this Court is of the opinion that judicial economy, fairness and comity favor allowing the resolution of the takings claims asserted by Plaintiffs under Article 1 § 17 of the Texas

Constitution to be left to the wisdom and expertise of the Honorable Kerry Neves, the duly elected Judge of the 10th Judicial District Court of Galveston County.

It is, therefore, **ORDERED** that the Plaintiffs' "Motion for Remand or Partial Remand" (Instrument no. 14) is **GRANTED, in part**; that the Plaintiffs' federal takings claim is **SEVERED and STAYED**; and that the remainder of this action is **REMANDED** to the 10th Judicial District Court of Galveston County, Texas.

The parties **SHALL** promptly notify the Court of the resolution of the state court proceedings.

DONE at Galveston, Texas, this 15th day of August, 2013.



John R. Froeschner
United States Magistrate Judge